

DISTRICT OF MASSACHUSETTS
UNITED STATES DISTRICT COURT

FILED
CLERK'S OFFICE
2004 JAN -6 P 4: 18

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

) MDL No. 1456

) CIVIL ACTION: 01-CV-12257-PBS

) Judge Patti B. Saris

THIS DOCUMENT RELATES TO:

ALL ACTIONS

U.S. DISTRICT COURT
DISTRICT OF MASS.

**RESPONSE OF DEFENDANT GLAXOSMITHKLINE
TO PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER
SEAL AN UNREDACTED VERSION OF PLAINTIFFS'
MEMORANDUM IN OPPOSITION TO HOFFMANN-LA ROCHE'S
MOTION FOR A CONTINUED STAY OF DISCOVERY**

In support of their opposition to Hoffmann-La Roche's motion for a continued stay of discovery, the plaintiffs attach to their opposition memorandum as Exhibits A through F documents created by one of GlaxoSmithKline's predecessor companies in the 1994-95 time period, five years or more prior to SmithKline Beecham's sale of Kytril to Hoffmann-La Roche. In fact, they are GlaxoSmithKline documents, created prior to the sale of Kytril from SmithKline Beecham to Hoffmann-La Roche. In view of the passage of time and public disclosures by the House Committee on Commerce and Energy, GSK does not object to the public filing of plaintiffs' opposition and the exhibits thereto. However, GSK reserves its rights to enforce its confidentiality designations with respect to other documents it has produced to plaintiffs.

Respectfully submitted,

By: 

Geoffrey Hobart
Holland & Knight LLP
10 St. James Avenue
Boston, MA 02116
Tel: (617) 854-1419
Fax: (617) 523-6850

Mark H. Lynch
Ethan M. Posner
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel: (202) 662-5544
Fax: (202) 778-5544

Frederick G. Herold
Dechert LLP
975 Page Mill Road
Palo Alto, CA 94304
Tel: (650) 813-4930
Fax: (650) 813-4848
(Member of Pennsylvania Bar; admission
to California Bar pending)

*Counsel for SmithKline Beecham Corp.,
d/b/a GlaxoSmithKline*

Dated: January 6, 2004

CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2004, I caused a true and correct copy of this Response of Defendant GlaxoSmithKline to Plaintiff's Motion for Leave to File Under Seal An Unredacted Version of Plaintiffs' Memorandum in Opposition to Hoffman-La Roche's Motion for A Continued Stay of Discovery to be served on all counsel by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL No. 1456.


Geoffrey E. Hobart